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FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO July 11 2019
BY ANALYST

BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the First Amended Accusation Against: **EMANUEL VINCENT DOZIER, M.D.** 2019 21st Street Bakersfield, California 93301 Physician's and Surgeon's Certificate No. G 75322, Respondent.	Case No. 800-2017-035845 OAH No. 2018110936 **FIRST AMENDED ACCUSATION**

Complainant alleges:

PARTIES

1. Kimberly Kirchmeyer (Complainant) brings this First Amended Accusation solely in her official capacity as the Executive Director of the Medical Board of California, Department of Consumer Affairs (Board).

2. On or about October 6, 1992, the Board issued Physician's and Surgeon's Certificate Number G 75322 to Emanuel Vincent Dozier, M.D. (Respondent). That certificate was in full force and effect at all times relevant to the charges brought herein and will expire on February 29, 2020, unless renewed.

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JURISDICTION

3. This First Amended Accusation is brought before the Board, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 2227 of the Code provides that a licensee who is found guilty under the Medical Practice Act may have his or her license revoked, suspended for a period not to exceed one year, placed on probation and required to pay the costs of probation monitoring, or such other action taken in relation to discipline as the Board deems proper.

5. Section 2234 of the Code states, in pertinent part:

"The board shall take action against any licensee who is charged with unprofessional conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not limited to, the following:

"(a) Violating or attempting to violate, directly or indirectly, assisting in or abetting the violation of, or conspiring to violate any provision of this chapter.

"(b) Gross negligence.

"(c) Repeated negligent acts. To be repeated, there must be two or more negligent acts or omissions. An initial negligent act or omission followed by a separate and distinct departure from the applicable standard of care shall constitute repeated negligent acts.

"(1) An initial negligent diagnosis followed by an act or omission medically appropriate for that negligent diagnosis of the patient shall constitute a single negligent act.

"(2) When the standard of care requires a change in the diagnosis, act, or omission that constitutes the negligent act described in paragraph (1), including, but not limited to, a reevaluation of the diagnosis or a change in treatment, and the licensee's conduct departs from the applicable standard of care, each departure constitutes a separate and distinct breach of the standard of care.

"..."

6. Section 2242, subdivision (a), of the Code states:

"Prescribing, dispensing, or furnishing dangerous drugs as defined in Section 4022 without an appropriate prior examination and a medical indication, constitutes unprofessional conduct."

7. Section 2266 of the Code states:

"The failure of a physician and surgeon to maintain adequate and accurate records relating to the provision of services to their patients constitutes unprofessional conduct."

FIRST CAUSE FOR DISCIPLINE

(Gross Negligence)

8. Respondent is subject to disciplinary action under Code section 2234, subdivision (b), in that he committed gross negligence in his care and treatment of Patient A.[1] The circumstances are as follows:

9. During the relevant time period, Respondent maintained a solo internal medicine practice in Bakersfield, California and had attending privileges at Mercy Memorial Hospital, also located in Bakersfield, California.

10. On or about August 17, 2011, Patient A, a 58-year old female and established patient of Respondent, reported to the emergency room at Mercy Memorial Hospital. Respondent did not treat Patient A on that date, but was listed as her Primary Physician in her medical record. Her chief complaint was pain in her lower right chest or upper right abdomen with nausea. Her medications were noted to include Methadone (a Schedule II opiate), Soma (a Schedule IV muscle relaxant) and Xanax (a Schedule IV benzodiazepine). Patient A was not admitted to the hospital and it was recommended in her medical record that she follow up with her primary physician.

11. On or about August 28, 2011, Respondent prescribed Patient A Methadone. At the time, Patient A was enrolled in a Methadone treatment program. Respondent did not see Patient A at his office on either day.

12. On or about August 29, 2011, Respondent treated Patient A at his office for her hospital follow up visit. Patient A was noted to have numerous chronic problems, including

[1] In this Accusation, the patient is referred to as "Patient A" to protect her right of privacy. The patient's full name will be disclosed to Respondent when discovery is provided pursuant to Government Code section 11507.6.

irritable bowel syndrome, bipolar I disorder, chronic pain, chronic airway disease and asthma. She was also noted to be suffering from abdominal pain at the time of this visit.

13. Respondent's note for the August 29, 2011, office visit fails to describe or address any of Patient A's symptoms and her abdominal pain was not fully evaluated or addressed. Additionally, Methadone is not listed as one of her past or present prescriptions.

14. On or about October 2, 2011, Patient A was admitted to Mercy Memorial Hospital after she presented with confusion due to a pain medication and benzodiazepine overdose. The hospital held her prescriptions for Wellbutrin (an antidepressant), Xanax, Ambien and Soma. Patient A left the hospital on October 3, 2011, against medical advice because she wanted her medications.

15. Respondent next saw Patient A at his office on or about November 21, 2011. Again, Methadone was not listed as one of her past or present prescriptions in her medical record. Respondent, however, had prescribed Patient A Methadone on both October 27, 2011, and November 14, 2011.

16. Respondent next saw Patient A at his office on or about December 19, 2011. Again, Methadone was not listed as one of her past or present prescriptions in her medical record. At that visit, Respondent prescribed Patient A Dilaudid (a Schedule II opiate).

17. Respondent prescribed Patient A Methadone again on or about December 22, 2011.

18. On or about January 18, 2012, Respondent prescribed Patient A Methadone and Hydromorphone (generic for Dilaudid).

19. Respondent saw Patient A for the next and last time on or about April 24, 2012, at his office. Respondent noted in her record that Patient A presented for a refill of her pain medications. Specifically, Patient A reported being out of town for two months due to a family illness. Methadone is listed as one of her medications, along with Soma and Xanax. On that day, Respondent prescribed Patient A Soma, Xanax and Methadone (at her previously established dosage).

20. Patient A died on April 25, 2012, of Methadone toxicity (overdose).

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21. The applicable standard of care in the medical community requires a treating physician to review a patient's medical issues at each visit, address different modalities of treatment for the patient's medical issues and change the patient's treatment as necessary to maximize the patient's health and standard of living.

22. Respondent committed an extreme departure from the standard of care when he failed to adequately address Patient A's medical issues at each of her four visits between August 29, 2011, and April 24, 2012.

23. The applicable standard of care in the medical community requires a treating physician to document all medication prescribed during the visit.

24. Respondent committed an extreme departure from the standard of care when he repeatedly failed to list Methadone as one of Patient A's medications.

25. The applicable standard of care in the medical community requires that when a patient is taking Methadone, no other opiates should be prescribed to that patient.

26. Respondent committed an extreme departure from the standard of care when he prescribed Patient A two opiates, Methadone and Dilaudid. Additionally, Respondent also contemporaneously prescribed Patient A Xanax and Ambien, both of which are contraindicated when prescribing Methadone.

27. The applicable standard of care in the medical community requires that patients in a drug program be medically monitored.

28. Respondent committed an extreme departure from the standard of care when he failed to adequately monitor Patient A's medication use, despite her participation in a Methadone treatment program.

29. Respondent's acts and/or omissions as set forth in paragraphs 9 through 28, inclusive above, whether proven individually, jointly, or in any combination therefore, constitute gross negligence pursuant to section 2234, subdivision (b), of the Code. As such, cause for discipline exists.

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SECOND CAUSE FOR DISCIPLINE

(Repeated Negligent Acts)

30. Respondent is subject to disciplinary action under Code section 2234, subdivision (c), in that he committed repeated negligent acts in his care and treatment of Patient A. The circumstances are as follows:

31. Paragraphs 9 through 28 are incorporated by reference and re-alleged as if fully set forth herein.

32. Respondent's acts and/or omissions as set forth in paragraphs 9 through 28, inclusive above, whether proven individually, jointly, or in any combination thereof, constitute repeated negligent acts in violation of section 2234, subdivision (c), of the Code. As such, cause for discipline exists.

THIRD CAUSE FOR DISCIPLINE

(Furnishing Dangerous Drugs without Examination)

33. Respondent is subject to disciplinary action under Code sections 2234, subdivision (a), and 2242, subdivision (a), in that he committed unprofessional conduct when he prescribed dangerous drugs to Patient A without adequately addressing her medical issues. The circumstances are as follows:

34. Paragraphs 9 through 28 are incorporated by reference and re-alleged as if fully set forth herein.

35. Respondent's acts and/or omissions as set forth in paragraphs 9 through 28, inclusive above, whether proven individually, jointly, or in any combination thereof, constitute unprofessional conduct in violation of sections 2234, subdivision (a), and 2242, subdivision (a), of the Code. As such, cause for discipline exists

FOURTH CAUSE FOR DISCIPLINE

(Inadequate Medical Record Keeping)

36. Respondent is subject to disciplinary action under Code sections 2234, subdivision (a), and 2266, in that he failed to maintain adequate and accurate records for Patient A. The circumstances are as follows:

37. Paragraphs 9 through 28 are incorporated by reference and re-alleged as if fully set forth herein.

38. Respondent's acts and/or omissions as set forth in paragraphs 9 through 28, above, whether proven individually, jointly, or in any combination thereof, constitute the failure to maintain adequate and accurate records pursuant to section 2266 of the Code. As such, cause for discipline exists.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Medical Board of California issue a decision:

1. Revoking or suspending Physician's and Surgeon's Certificate Number G 75322, issued to Emanuel Vincent Dozier, M.D.;

2. Revoking, suspending or denying approval of Emanuel Vincent Dozier, M.D.'s authority to supervise physician assistants and advanced practice nurses;

3. Ordering Emanuel Vincent Dozier, M.D., if placed on probation, to pay the Board the costs of probation monitoring; and

4. Taking such other and further action as deemed necessary and proper.

DATED: July 11, 2019

KIMBERLY KIRCHMEYER
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant

LA2018502223